

**Letter of Findings: 01-20191429
Individual Income Tax
For the Tax Year 2016**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual and his wife filed a joint income tax return at the federal level in 2016, thus, their 2016 Indiana return must also be a joint income tax return. If Individual wishes to amend his 2016 Indiana return to filing separately, he must do so at the federal level first. Individual's original Indiana return stands as the correct return; any amended returns cannot be processed until Individual's federal return is amended.

ISSUE

I. Income Tax-Imposition.

Authority: IC § 6-8.1-5-1; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-3-1-3.5; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); 2016 Indiana IT-40 Full-Year Resident Individual Income Tax Booklet.

Taxpayer protests the adjustment of his 2016 amended return.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who historically files his state and federal income tax returns under the "Married Filing Separately" status. However, in 2016, Taxpayer states that he and his wife inadvertently filed their income tax return under the "Married Filing Jointly" status. Thus, the original joint return was recorded for both Taxpayer and his wife. The joint return reflected a Federal Adjusted Gross Income ("FAGI") of approximately \$69,000 and a refund due of \$334. Taxpayer realized his mistake and soon after filed an amended return reflecting just his FAGI of just over \$34,000 and refund of \$106. Taxpayer's wife did the same, and filed an amended return reflecting her FAGI of approximately \$36,000 and a refund of \$241. In processing the returns, the Indiana Department of Revenue ("Department") adjusted Taxpayer's amended return to reflect the originally filed FAGI of \$69,000, resulting in a base tax liability of \$1,986. Taxpayer's wife's amended return was processed as filed.

Taxpayer filed a protest and an administrative hearing was held. During the hearing process supplemental documentation was provided. This Letter of Findings results. Additional facts will be provided as necessary.

I. Income Tax- Imposition.

DISCUSSION

While processing the Taxpayer's amended 2016 return, the Department increased Taxpayer's FAGI from \$34,000 to \$69,000; the amount inadvertently reported on Taxpayer's original return. Taxpayer protested the assessment stating that he disagreed with the increase in his FAGI.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939

Indiana imposes an adjusted gross income tax on all residents. IC § 6-3-2-1(a). A taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. IC § 6-3-1-3.5(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In March of 2017, Taxpayer explained that he and his wife mistakenly filed a joint state income tax return reporting a combined FAGI of approximately \$69,000, and a refund due of \$334. In August of 2017, Taxpayer realized their mistake and both Taxpayer and his wife filed separate amended returns using the "Married Filing Separately" status. Taxpayer reported an FAGI of just over \$34,000 with a refund claim of \$106. Taxpayer's wife reported an FAGI of just over \$36,000 and a refund claim of \$241. The Department processed Taxpayer's return and attributed the entire original \$69,000 FAGI to Taxpayer's amended return, resulting in an assessment of \$1,986 in base tax issued on September 23, 2019. Wife's amended return was processed and accepted as filed.

During the hearing process, the Department was able to obtain a copy of Taxpayer's 2016 Federal Return Transcript, dated February of 2020. The Transcript showed that at the Federal level, Taxpayer filed a joint return with his wife, with an FAGI of \$69,000. According to Indiana's 2016 "IT-40 Full-Year Resident Individual Income Tax Booklet," Taxpayers who "filed [their] federal income tax return as married filing jointly . . . also must file married filing joint with Indiana." (pg. 5).

Thus, unless Taxpayer can otherwise prove that he and his wife amended their 2016 Federal income tax return to report as "Married Filing Separately," the Department cannot accept Taxpayer and his wife's amended returns. Rather, their original Indiana return, reflecting a combined FAGI of \$69,000 and a refund of \$334 stands. Taxpayer is sustained in that the \$1,986 assessment should be cancelled, since the entire \$69,000 was the same \$69,000 reported on the original return rather than a new amount; however, Taxpayer is denied in that his amended return and his wife's amended return cannot be processed as filed. The Department will reconcile any amounts that were previously refunded in error with the \$334 that should be refunded.

FINDING

Taxpayer's protest is sustained in part and denied in part.

September 1, 2020

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